

ARGUMENT

In the office action dated December 5, 2003, the Examiner rejected claims 45-49, 56, 58, 61 and 64 under 35 U.S.C. §102(e) as being clearly anticipated by Kaku (US 5,987,334) as stated by the Office action dated April 3, 2003, paragraph 7. The Examiner also rejected claims 58, 61, and 64 under 35 U.S.C. §103(a) as being unpatentable over Kaku in view of Allain, et al. (US 6,449,259). Additionally, the Examiner rejected claims 58, 61, and 64 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner believes that the specification fails to originally support and inadequately describes the now claimed priority data comprising the time of day at which the input signal is received, as stated by claim 58. Finally, the Examiner objected to the amendment filed February 19, 2003 under 35 U.S.C. §132 because it introduces new matter into the disclosure. Specifically, the Examiner believes that the added material on Page 4, after line 17, and Page 7, after line 3, is not supported by the original disclosure. The Examiner further believes that the arguments filed by Applicant on August 29, 2003 are not persuasive.

35 U.S.C. §102(e):

Claims 45-64 are pending in the application, in which claims 50-55, 57, 59, 60, 62 and 63 have been withdrawn from consideration. In the Office Action dated December 5, 2003, the Examiner rejected claims 45-49 and 56 under the provisions of 35 U.S.C. §102(e), taking the

position that these claims are anticipated by Kaku (US 5,987,334) as stated by the Office Action dated April 3, 2003, paragraph 7.

Applicant traverses the rejections and respectfully requests reconsideration and withdrawal of same since applicant has amended and/or clarified independent claims 45 and 58, in response to paragraph 7 of the Office Action dated April 3, 2003 and the Office Action dated December 5, 2003, to distinguish the present invention from the cited reference.

Applicant had previously amended independent claim 45 to include the language “a control processor for receiving and storing priority data, said priority data comprising the relative ability of each of said plurality of transmission systems to provide secure transmission of said input signal.” Applicant has also currently amended independent claim 58 to include the language “a control processor for receiving and storing priority data, said priority data comprising 1) the relative ability of each of said plurality of transmission systems to provide secure transmission of said input signal, and 2) the time of day at which said input signal would be transmitted.” Support for the use of the relative ability of each transmission system to provide secure transmission may be found at the following places in Applicant’s original disclosure: 1) page 1, line 26; 2) page 2, line 9; 3) page 2, line 19; 4) page 3, line 5; 5) page 3, lines 18-19; 6) page 6, lines 24-25; 7) page 7, line 11; 8) page 8, lines 2-5 and 9) page 8, lines 21-23. Support for the use of the time of day at which said input signal would be transmitted may be found at page 11, lines 4-5 and page 11, lines 8-10 of the original disclosure.

These amendments distinguish the claims in Applicant’s invention over the cited references by having the priority data in Applicant’s invention comprising of the relative ability of each transmission system to provide secure transmission of said input signal. Kaku is concerned with

communication quality. The communication quality is not a measure of the security of the communication environment. Kaku defines communication quality at column 3, lines 41-44, as referring to error rate or amplitude of the signal received therefrom, or the carrier strength from the communicating relay station of the network Na. The quality of the communication signal provides an indication as to the probability of reliably transmitting a signal; it does not relate to the security of a transmission system.

The Examiner's attention is directed to the definition of the term "security, as evidenced by a photocopy of "Webster's New Collegiate Dictionary" filed herewith. The term "security" specially relates to measures taken to guard against espionage or sabotage, crime, attack, or escape.

The security of the transmission system may be relevant to law enforcement, fire, medical and other emergency services. Monitoring of transmissions made by such services is generally undesirable, and the ability of such services to respond to emergencies can be affected if the transmission systems are susceptible to attack. For instance, in many instances it may be preferable for emergency systems to utilize encryption to prevent monitoring of transmissions, or attack of the transmissions.

Further, the Applicant discloses on page 2, line 9, that a transmission system can be selected depending upon a variety of factors, including quality of signal, costs, encryption requirements and the like. Also, on page 2, line 19, the Applicant states that this system permits the user to operate over the desirable system, whether the priority is costs, security, reliability, speed or a combination of these criteria. The Applicant's use of the term security (and the associated term "encryption") along with the term reliability (and the associated term "quality of signal") show that these two concepts are distinct.

The Examiner stated in his Office action dated April 3, 2003, that the term "security characteristics" is unclear and that the Examiner shall take that term to mean anything which can or may be used for security including security control or identifying codes. First, this definition is improper in light of the standard definition given by "Webster's New Collegiate Dictionary", which is stated above. "Webster's New Collegiate Dictionary" does not define the term security in the manner that the Examiner suggests. Secondly, Kaku states on column 5, lines 27-28, that there may be preset also a plurality of priority sets together with their identifying codes. The term "identifying codes", as used in this reference, does not suggest a security feature, but only provides a shortcut for a preset priority. As discussed in column 5, lines 29-36, first priority code '#1' refers to a first priority set according to service charges, second priority code '#2' refers to a second priority set according to widths of service area, and third priority code '#3' refers to a third priority set according to robustness against movement of mobile terminals. These codes are not a security feature, but merely instruct the processor to check the systems in a particular order.

None of the cited prior art documents disclose, or even hint at the possibility of utilizing the relative security of a transmission system as a selection criteria of a transmission system. Consequently, the present invention as defined by the amended claims, is not only novel, but also inventive over the cited prior art. These claims are neither taught, suggested, nor anticipated by the cited references.

35 U.S.C. §103(a):

Claims 45-64 are pending in the application, in which claims 50-55, 57, 59, 60, 62 and 63 have been withdrawn from consideration. In the Office Action dated December 5, 2003, the

Examiner rejected claims 58, 61 and 64 under the provisions of 35 U.S.C. §103(a), taking the position that these claims are unpatentable over Kaku (US 5,987,334) in view of Allain et al. (US 6,449,259).

Applicant traverses the rejections and respectfully requests reconsideration and withdrawal of same since Applicant has amended and clarified independent claim 58, thus rendering it no longer anticipated, described, taught, or suggested by any of the cited references.

Regarding claim 58, applicant has currently amended the claim to clarify the distinction of this invention from the inventions of Kaku in view of Allain et al. Claim 58 now includes the language “a control processor for receiving and storing priority data, said priority data comprising 1) the relative ability of each of said plurality of transmission systems to provide secure transmission of said input signal, and 2) the time of day at which said input signal would be transmitted.” Claim 58 is distinguished from the cited references Kaku and Allain et al. because the priority data in Applicant’s invention comprises of the relative ability of each transmission system to provide secure transmission of said input signal. Kaku and Allain et al. are both concerned with communication quality and not security of the transmission. The difference between these features/terms have been discussed above. Since security of the transmission is not synonymous with communication quality, Applicant’s invention is not anticipated, described, taught, or suggested by any of these cited references.

Regarding claims 61 and 64, these claims depend from currently amended independent claim 58, and thus should be in acceptable form. The applicant has placed independent claim 58 in allowable form by amending it to clarify the distinction of this invention over the cited Kaku patent

in view of the Allain et al. patent. Claims 61 and 64 are neither taught, suggested, nor anticipated by the cited references.

35 U.S.C. §112:

Claims 45-64 are pending in the application, in which claims 50-55, 57, 59, 60, 62 and 63 have been withdrawn from consideration. In the Office Action dated December 5, 2003, the Examiner rejected claims 58, 61 and 64 under the provisions of 35 U.S.C. §112, first paragraph, taking the position that these claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner believes that the specification fails to originally support and inadequately describe the now claimed priority data comprising the time of day at which the input signal is received, as stated by claim 58.

Applicant traverses the rejections and respectfully requests reconsideration and withdrawal of same since applicant has currently amended and clarified independent claim 58, thus rendering it supported and adequately described by the original specification.

Regarding claim 58, Applicant has amended the claim to properly read from the original specification. Claim 58 now includes the language “a control processor for receiving and storing priority data, said priority data comprising 1) the relative ability of each of said plurality of transmission systems to provide secure transmission of said input signal, and 2) the time of day at which said input signal would be transmitted.” This language, regarding the priority data comprising

of the time of day at which said input signal would be transmitted, is supported by the original specification on page 11, lines 8-10. The specification states that time of day may be a factor in choosing priorities depending on whether the transmission is sent during peak or off-peak periods. Since claim 58 is now properly supported and adequately described by the original specification, it should be in allowable form.

Regarding claims 61 and 64, these claims depend from currently amended independent claim 58, and thus should be in acceptable form. The applicant has placed independent claim 58 in allowable form by amending it to be properly supported and adequately described by the original specification. Therefore, claims 61 and 64 should now be in allowable form.

35 U.S.C. §132:

Claims 45-64 are pending in the application, in which claims 50-55, 57, 59, 60, 62 and 63 have been withdrawn from consideration. In the Office Action dated December 5, 2003, the Examiner objected to the amendment filed on February 19, 2003 under the provisions of 35 U.S.C. §132, taking the position that the added materials in Figure 2E, on page 4, after line 17, and on page 7, after line 3 are not supported by the original disclosure.

Applicant traverses the objections and respectfully requests reconsideration and withdrawal of same since applicant has shown that these added materials are in fact supported by the original disclosure.

In response to the Examiner's disapproval of Figure 2E, Applicant respectfully provides the following showing of the requisite support in the original disclosure. First, Figure 2E is a substantial

duplication of original Figure 2B, except for boxes (154), (152), and (156). Thus, Applicant respectfully argues that the remaining portions of Figure 2E are clearly supported by original Figure 2B.

Box (154), labeled as “transmission system information”, refers to data held upon the control processor describing any of the systems that may be available, ranging from land line telephone, cellular telephone, radio, internet, Ethernet, LAN, and other systems. Please see page 8, lines 19-25 of the original disclosure for an example of the requisite support for this portion of Figure 2E. This portion of the disclosure states that transmission systems can be any of the available systems ranging from land line telephone, cellular telephone, radio, Internet, Ethernet, LAN and other systems. Thus, Box (154) is supported by the original disclosure.

Box (156), labeled as “priority criteria”, refers to operating parameters pre-programmed or manually entered by the user that may be utilized by the control processor to define the priority hierarchy. These parameters are mentioned throughout the specification, including page 8, lines 21-23 of the original disclosure. Also, support for the operating parameters being pre-programmed or manually entered is found on page 6, lines 3-4, which states that the prioritized transmission system can be selected based on either pre-programmed priority parameters, or on operator input. Box (156) has been shown to be supported by the original disclosure.

Finally, Box (152), labeled as “define priority hierarchy”, refers to the system’s use of transmission system information in combination with priority criteria to define a priority hierarchy through which a given transmission system is chosen. For several examples, please see page 2, lines 17-21; page 3, lines 4-11; page 6, lines 3-11; page 6, lines 12-17; page 6, lines 21-27; page 7, lines 24-29; page 8, lines 1-5; page 8, lines 14-25; page 8, lines 30-31; page 11, lines 4-10; and page 11,

lines 15-18 of the original disclosure. On page 8, lines 19-25, the disclosure states that the system permits selection of a transmission scheme based on three distinct criteria groups, which includes (1) operating parameters or conditions, which is Box (156) and (2) type of transmission, which is Box (154). Also, on page 7, line 29 – page 8, line 2, the disclosure states that a data capture system can implement a wireline interface, a PCS interface and/or a cellular interface in any selected prioritization, for transmission, which corresponds to Box (152)'s use of Box (154) in determining a prioritization. The disclosure also states that the services can be configured to select the highest priority based on user criteria such as cost, security, reliability and/or speed of transmission, which corresponds to Box (152)'s use of Box (156) in determining a prioritization.

In light of the above illustrated support, Applicant respectfully requests that the Examiner reconsider his disapproval of Figure 2E.

Regarding the objection to the amendment to the specification under 35 U.S.C. §132, Applicant respectfully offers the following showing of support for said amendment in the original disclosure.

First, the amendment on page 4, after line 17, is identical to page 4, line 13's language regarding Figure 2B (found in the original disclosure), except that it introduces Figure 2E and utilizes "the establishment of a priority hierarchy" terminology. As discussed above, the original disclosure provides numerous examples of the establishment of a priority hierarchy for use in choosing between various transmission systems. Please see above discussion of support for Figure 2E for specific citations to the original disclosure. Since this amendment has been shown to be supported by the original disclosure, Applicant respectfully requests the Examiner to withdraw his objection to this amendment.

Second, support for the amendment to the specification on page 7, after line 3, may be found in the original disclosure. Regarding the first paragraph of the amendment, please find its support on page 6, lines 3-4; page 6, line 5; page 8, lines 19-25; page 2, lines 6-9; and page 2, lines 20-21. Regarding the second paragraph of the amendment, please find its support on page 6, lines 5-11 and in Figure 2B. Also, please see the above discussion of support for Figure 2E for specific citations to the original disclosure. Since this amendment has been shown to be supported by the original disclosure, Applicant respectfully requests the Examiner to withdraw his objection to this amendment.

Also, in the Office Action dated December 5, 2003, the Examiner questioned why the Applicant's attorney would amend the specification only to put in duplicate subject matter. The Examiner concluded that Applicant's attorney is purposely amending the specification for additional descriptive matter subsequent to the filing date in order to complete the disclosure so as to conform the specification's description of the invention to statutory standard. Applicant respectfully states that the Examiner has drawn an incorrect conclusion regarding this amendment. As Applicant has shown to the Examiner in the response, these amendments are supported by the original disclosure. It has been said that a picture is worth a thousand words. Applicant is adding Figure 2E and a short description regarding this figure to the original disclosure so that someone who is reading the disclosure will be able to follow it better.

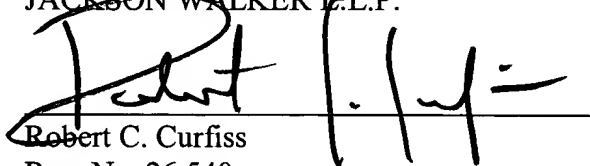
REMARKS

Applicant respectfully requests that this amendment/response be considered by the Examiner and a notice of allowance be entered.

Applicant amended the claims to clarify the structure which applicant believes distinguishes the invention over the cited references, to clarify the functions of the claimed invention, and to clarify the limitations within the claims drawn to such structure. However, amendments have not been made to narrow the claims of the original application but, rather simply, to clarify claims due to grammar that the Examiner found unclear.

If the Examiner feels that a telephone conference with the undersigned would be helpful to the allowance of this application, a telephone conference is respectfully requested.

Respectfully submitted,
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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service, with sufficient postage as First Class Mail (37 CFR 1.8(a)), in an envelope addressed to Mail Stop Response/FEE, Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA, 22313-1450.

Date: June 2, 2004


Renee Treider